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Ricky F Combest

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12/06/2007

BLANK ROME LLP

600 NEW HAMPSHIRE AVENUE, N.W.

WASHINGTON, DC 20037

EXAMINER

SHINGLES, KRISTIE D

ART UNIT

PAPER NUMBER

2141

MAIL DATE

DELIVERY MODE

12/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/539,662

Applicant(s)

COMBEST, RICKY F

Examiner

Kristie D. Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,28-47 and 51 is/are pending in the application.
- 4a) Of the above claim(s) 8-27 and 48-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,28-47 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Notice of References Cited

Application/Control No.

09/539,662

Applicant(s)/Patent Under
Reexamination
COMBEST, RICKY F

Examiner

Kristie D. Shingles

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U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,697,840	02-2004	Godefroid et al.	709/205
*	B	US-5,987,611	11-1999	Freund, Gregor	726/4
*	C	US-5,828,832	10-1998	Holden et al.	726/12
*	D	US-5,774,650	06-1998	Chapman et al.	726/7
*	E	US-5,771,291	06-1998	Newton et al.	713/185
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

DETAILED ACTION

Response to Amendment

Applicant has no amended claims.
Claims 8-27 and 48-50 are non-elected.

Claims 1-7, 28-47 and 51 are pending.

Response to Arguments

I. In view of the Appeal Brief filed on 8/21/2007, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is a non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendment, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

II. Applicant's arguments with respect to claims 17, 28 and 36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

III. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

IV. **Claims 1-3 and 7** are rejected under 35 U.S.C. 102(e) as being anticipated by *Godefroid et al* (USPN 6,697,840).

a. **Per claim 1**, *Godefroid et al* teach a dynamic virtual network on which participating members can establish partnerships, communicate, and share information, the network comprising:

- a network authority including a computer programmed for network administration (*col.7 line 45-col.8 line 18—PA server functions as a network authority*);
- at least a first network member and a second network member, each member including a computer comprising means for communicating over a global network (*col.4 lines 48-63, col.5 lines 4-14 and 50-55—multiple user members in the network*);
- at least a first network access device and a second network access device, wherein the first access device is accessible by the first network member and the second access device is accessible by the second network member each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member (*col.2 lines 19-24, col.3 lines 35-62, col.6 lines 53-67, col.7 lines 1-44, col.8 lines 9-18—a respective PA controller is associated with each user, accessible to the associated user and stores information about the associated user*); and
- for each network access device and the network authority, an interface facilitating connection to a global network (*col.7 lines 1-20*).

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b. **Per claim 2**, *Godefroid et al* teach the network claimed in claim 1, wherein the global network interface provides priority network transmission by connection to a commercial global network system, which provides business critical levels of service (*col.2 lines 19-22, col.3 lines 1-62, col.10 lines 1-35*).

c. **Per claim 3**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, including communication between the first and second network access devices, and the network authority, which utilizes digital certificates (*col.8 lines 9-65*).

d. **Per claim 7**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, including means for enabling limited access to the member's information to other network members, while excluding nonmembers from access (*col.3 lines 40-62*).

Claim Rejections - 35 USC § 103

V. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

VI. **Claims 28-36, 38-44, 47 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kleinpeter III et al* (USPN 6,907,463) in view of *Schneider et al* (USPN 6,105,027).**

a. **Per claim 28**, *Kleinpeter III et al* teach a method for forming a partnership between two dynamic virtual network members connected by a network, the method comprising:

- selecting a partnership criterion by the first network member (*col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-38—user's request message is partnership criterion that initiates the agent selection process*);

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- broadcasting the partnership criterion by the first network member to other network members (*col.7 lines 39-44—broadcasting of the request message includes a query with partnership criterion*);
- receiving by a second network member the partnership criterion (*col.1 lines 60-66 and col.7 lines 28-57—all nodes of the network received the request message, including the node able to fulfill the request*);
- the second network member responding to the first network member (*col.1 line 65-col.2 line 46 and col.7 lines 57-61—the node able to fill the request responds*); and
- establishing a partnership relationship between the first network member and second network member (*col.1 line 62-col.3 line 43, col.4 lines 27-63, col.7 lines 57-61 and col.8 line 22-col.9 line 36—upon receiving response from the responding node, a partnership is established via a connection of the ports from the active agent to the passive agent for handshaking and transfer instructions*).

Yet, *Kleinpeter III et al* fail to distinctly teach virtual network members.

However, *Schneider et al* disclose a virtual private network with users forming a membership group (*Abstract, col.4 lines 43-50, col.7 lines 42-65, col.11 line 29-col.12 line 56*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kleinpeter III et al* and *Schneider et al* for the purpose of implementing a virtual network with logical connections and access to other users and resources on the network; because it permits secure transparent communication for the users thereby creating a wide area network capable of spanning large geographic regions with many users.

b. **Claim 36** is substantially similar to claim 28 and is therefore rejected under the same basis (*Kleinpeter III et al: col.1 lines 43-45, col.3 lines 22-55, col.4 lines 18-26, col.7 lines 28-38, col.7 line 67-col.8 line 3 and col.11 lines 43-50*).

c. **Claims 38 and 39** are substantially similar to claim 36 and are therefore rejected under the same basis.

d. **Per claim 29**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the network members are connected to the network via a network access device, which denies network access to net non-members (*col.3 lines 43-50, col.5 line 5-col.6 line 8 and col.7 lines 40-65*).

e. **Per claim 30**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's access drive (*col.2 lines 30-45, col.6 lines 23-36, col.14 line 24-col.15 line 49 and col.18 line 11-col.19 line 45*).

f. **Per claim 31**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's shared storage area (*col.2 lines 30-45, col.6 lines 23-36 and col.12 lines 3-47; Kleinpeter III et al: col.6 lines 48-56 and col.8 lines 14-20 and col.10 lines 13-32*).

g. **Per claim 32**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes transmittal by the first network member to the second network member of authorization to access private data on the first network member's network access device (*col.9 line 56-col.13 line 8 and col.18 line 11-col.19 line 45*).

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h. **Claim 33** is substantially similar to claims 31 and 32 and is therefore rejected under the same basis.

i. **Per claim 34**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes permitting access by the first network member partner to role information of the second network member partner (*col.6 lines 23-36, col.9 line 44-col.10 line 39 and col.13 line 10-col.14 line 63*).

j. **Claim 35** is substantially similar to claims 32 and 34 and is therefore rejected under the same basis.

k. **Per claim 40**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein the archiving control element resides in the network access device (*col.42 lines 48-62*).

l. **Claim 41** is substantially similar to claim 40 and is therefore rejected under the same basis.

m. **Per claim 42**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Kleinpeter III et al* further teach wherein receiving and contemporaneously archiving the transmitted information includes sending a return receipt (*col.5 lines 26-56 and col.9 line 56-col.10 line 6*).

n. **Per claim 43**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed

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in claim 36, *Schneider et al* further teach further comprising establishing a partnership between the first and second network members before the transmitting and contemporaneous archiving step (*col.7 lines 42-65 and col.10 lines 3-18*).

o. **Per claim 44**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein transmitting and contemporaneously archiving includes encrypting the information (*col.4 lines 50-63, col.6 lines 9-22 and col.8 lines 19-27*).

p. **Per claim 47**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein receiving and contemporaneously archiving transmitted information includes transmitting the signed document to the first network member (*col.10 lines 26-67; Kleinpeter III et al: col.2 lines 25-31, col.10 lines 13-25 and 64-67*).

q. **Per claim 51**, *Schneider et al* and *Kleinpeter III et al* teach a method of claim 28, *Kleinpeter III et al* wherein the partnership criterion is expressed as a search, and wherein the step of receiving comprises performing the search at the second network member (*col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-61*).

VII. Claims 4 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godefroid et al (USPN 6,697,840) in view of Schneider et al (USPN 6,105,027).

a. **Per claim 4**, *Godefroid et al* teach the dynamic virtual network claimed in claim 1, yet fails to further teach wherein at least the first and second network members include means for exchanging public keys. However *Schneider et al* teach network users exchanging public keys (*col.10 lines 19-37*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Godefroid et al* with *Schneider et al* for

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the purpose of allowing users the ability to exchange public keys in order to permit other users to access encrypted/decrypted messages.

b. **Claim 45** is substantially similar to claim 4 and is therefore rejected under the same basis.

VIII. Claims 5, 6, 37 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Godefroid et al* (USPN 6,697,840) in view of *Kleinpeter III et al* (USPN 6,907,463).

a. **Per claim 5**, *Godefroid et al* teach the method of claim 1 as applied above, yet fail to explicitly teach wherein the network authority further includes a means for contemporaneously archiving a communication transmitted over the network. However, *Kleinpeter III et al* teach archiving communications transmitted over the network to a server or gateway (*col.3 lines 22-55, col.7 line 67-col.8 line 3 and col.11 lines 34-50*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Godefroid et al* with *Kleinpeter III et al* for the purpose of contemporaneously archiving communications transmitted over a network, because this provisions the maintenance of the transmitted communications and also allows for the quick retrieval of communications that have been archived and the ability to handle interrupts by not starting a transmission over, but only transmitting data that is missing.

b. **Claim 6** is substantially equivalent to claim 5 and is therefore rejected under the same basis.

c. **Claim 37** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

d. **Claim 46** is substantially similar to claim 3 and is therefore rejected under the same basis.

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Conclusion

IX. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: Freund (5987611), Holden et al (5828832), Chapman et al (5774650), Newton et al (5771291).

X. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie D. Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie D. Shingles
Examiner
Art Unit 2141

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